IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.41 OF 2001

American Express Bank .. Appellant
V/s
Addl.Commissioner of Income Tax,
Special Range -32 .. Respondent

Mr.P.J.Pardiwala i/by M/s.Mulla & Mulla for the Appellant.

Mr.R.V.Desai with Ms.S.V.Bharucha for the Respondent.

CORAM: S.RADHAKRISHNAN &
J.P.DEVADHAR, JJ.

DATE : 18.01.2005.

P.C.:

1. Heard the learned Counsel for the parties. Two questions have been referred to us for our opinion under Section 256(1) of the Income Tax Act at the instance of the Assessee for Assessment Year 1988-89.

Questions :

(a) Whether expenditure incurred by the head office exclusively for the operations carried out in India is subject to the restrictive provisions of Section 44C?

(b) Whether in allocating expenditure that is to be considered under section 20 in computing the deductions from interest on securities, would the restrictive provisions of Section 44C be applicable?

2. So far as aforesaid Question No.(a) is concerned, in view of the judgment of this Court in the case of **Commissioner of Income Tax V/s Emirates Commercial Bank Limited reported in 262 ITR 55,** the said question is answered in the negative i.e.in favour of the Assessee and against the Department.

3. So far as aforesaid Question No.(b) is concerned, in view of the judgment of this Court in the case of **Citybank N.A.V/s.Commissioner of Income-tax, reported in 262 ITR 47,** the said question is answered in the negative i.e.in favour of the Assessee and against the Department.

4. Appeal is disposed of accordingly with no order as to costs.

(S.RADHAKRISHNAN,J.)

(J.P.DEVADHAR,J.)